



300 East Sonterra Blvd., Suite 310  
 San Antonio, Texas 78258 USA  
 phone: (210) 569-9262 • fax: (210) 497-7752  
[www.robertober.com](http://www.robertober.com)

May 9, 2014

**EXHIBIT**  
**E**

**Proposal #1**

**TO:** Shale Support Services  
 Jeff Bartlam, President  
 105 Street A  
 Picayune, MS 39466  
 Ph: 601. 749.3458  
 Dir: 202. 262.7095

**FROM:** Tony DeJoseph, COO  
 Plant Materials, LLC  
 Office: 210.569.9262  
 Fx: 210.497.7752  
[tdj@robertober.com](mailto:tdj@robertober.com)

**ATTN:** Paul Deville,

Dear Paul, Plant Outfitters is pleased to present you this contract for the following work for the Shale Support Upgrade. EQUIPMENT/SERVICES: The below costs are per week based on 7 days a week and two 12 hour shifts.

Ironworker Labor: Ironworkers Day Shift-\$905.00/man/8 hr day - (5 men - weekly total = 7 days)	\$38,010.00
Ironworker-OT Hrs Labor: Ironworkers Day Shift-\$137.50/hr over 8 hr day - (5 men @ 4 hrs ea. day - weekly total = 7 days)	\$23,100.00
Ironworker Labor: Ironworkers Night Shift \$1200.00/man/8 hr day - (5 men - weekly total = 7 days)	\$50,400.00
Ironworker-OT Hrs Labor: Ironworkers Night Shift- \$225.00/hr over 8 hr day - (5 men @ 4 hrs ea. day - weekly total = 7 days)	\$37,800.00
Equipment Rental-Generator \$2500.00/month - (weekly total = 7 days)	\$625.00
Equipment Rental -Three (3) Welding Machine \$1500.00/each= \$4500.00/month (weekly total = 7 days)	\$1,125.00
Parts All Materials will be invoiced at Cost plus OH + 10% (including welding supplies)	TBD
Welding Supplies (weekly total = 7days) Two weeks max	\$1900.00
Equipment Rental 10# Fork Lift (weekly total = 7 days)	\$1,175.00
Supervisor Labor: Supervisor \$1200.00/day (weekly total = 7 days)	\$8,400.00

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Equipment Rental Crane - 70 Ton @ \$170.00 per hour with 8 hour  
Minimum

TBD

Equipment Rental Crane - 40 Ton @ \$120.00 per hour with 4 hour  
Minimum

TBD

Terms: TBD with signed final proposal 0.00 0.00

Parts Welding Gases-Oxygen and acetylene will be provided  
by Shale Support Services

**EXCLUSIONS:** This quotation does not include:  
Parts Welding Gases-Oxygen and acetylene will be provided  
by Shale Support Services

**PER WEEK COST:**

**(Valid 30 Days): \$162,535.00**

**Plus Estimate for steel quote as of 4/17/14**

**\$23,695.03**

**GENERAL DESCRIPTION OF SCOPE: Required from SSS****PROPOSED PRELIMINARY PROJECT SCHEDULES: TBD****TERMS:**

XX% down payment with signed order; weekly total progress payments

**WIRE TRANSFERS:**

Beneficiary: Plant Materials, LLC  
Bank: Frost Bank  
100 West Houston St.  
San Antonio, TX 78205 USA  
Account #: 020297232  
ABA #: 114000093  
SWIFT: FRSTUS44

**MAILED PAYMENTS:**

Robert Ober & Associates and its affiliates Plant Materials, LLC  
18866-103 Stone Oak Parkway, Drwr 4  
San Antonio, TX 78258

**OVERNIGHT (FED-EX, UPS, ETC.) PAYMENTS:**

Plant Materials, LLC  
300 East Sonterra Blvd., Suite 310  
San Antonio, Texas 78258 USA

Robert Ober & Associates, LLC offers only those items specifically identified as included in this quotation. No assumption may be made concerning the inclusion of any item not specifically described.

**DELIVERY, INSURANCE & CLAIMS:**

Delivery of services shall be made as described. Delivery of equipment shall be made by placing the equipment F.O.B. the carrier at the point of manufacture. Title and risk of loss shall pass to the Owner at the time and place of such delivery, except to the extent that title may be retained by Contractor as security for payment. Contractor shall not be liable for any damage whatsoever in transit. Purchase of transit insurance is the responsibility of the Owner, and it shall be the Owner's responsibility to immediately make claims for any damaged or lost goods against the delivering carrier at the Owner's expense. In the event of any shortages or deficiencies in the equipment received, Owner agrees to advise Contractor of same within 10 days. Owner further agrees not to withhold any money due Contractor for the original shipment or replacement shipments pending settlement of any such claims.

**CANCELLATION:**

Owner may not cancel this agreement with respect to services already provided, or as to any equipment after shipment of the equipment. Prior to the shipment of the equipment, Owner may cancel only upon Contractor accepting such cancellation and upon Contractor agreeing to the following special provisions:

- 1) In the case of standard equipment, Owner shall pay Contractor 25% of Owner's purchase price as cancellation charges.
- 2) In the case of any product or system modified or made to order for the Owner, the Owner shall pay all engineering and manufacturing costs up to the date of acceptance of the cancellation by Contractor.

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3) Payment of cancellation charges shall be made by the Owner upon receipt of a statement from Contractor.

**NOTES:**

All proposals are valid for a period of 30 days from date shown on quote. Purchase orders received 30 days after the date of this proposal will not be accepted and Robert Ober & Associates will issue a new proposal.

The attached statement of Warranty is incorporated into this quotation as a part of the quotation as though here set out in full.

The laws of the State of Texas will govern any agreements covering the purchase of the items offered in this quotation. All obligations and undertakings of the parties are to be performed at San Antonio, Bexar County, Texas.

**ORDER CONFIRMATION**

Customer's Signature

Print Name / Title

DATE Signed:

Robert Ober &amp; Associates Representative

Print Name / Title

DATE Signed:

By signing this proposal, customer authorizes Robert Ober & Associates, LLC to enter this order. Attached terms and conditions of the Robert Ober & Associates sales contract will apply.

THIS DOCUMENT, ALL ITS TECHNICAL INFORMATION AND DETAILS CONTAINED HEREIN ARE PROPERTY OF ROBERT OBER & ASSOCIATES, LLC, SAN ANTONIO, TEXAS 78258, U.S.A. IT IS NOT TO BE DISCLOSED IN ANY MANNER TO ANY COMPETITORS OF ROBERT OBER & ASSOCIATES, OR TO ANY OTHER PARTY.

**ROBERT OBER & ASSOCIATES AND ITS AFFILIATES  
TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES, EQUIPMENT, PARTS, OR RENTAL**

**1. DEFINITIONS**

As used throughout these Terms and Conditions, the definitions of "Contractor" and "Owner" shall be those parties respectively designated as such on the face of the attached Contractor's Proposal. "Party" shall be used to refer to either Contractor or Owner. "Parties" shall refer to both Contractor and Owner. The term "Services" shall include specification, design, procurement, delivery, installation, labor, inspection and/or testing specified, performed or required to be performed in connection with any services or goods ordered pursuant to the Proposal. The term "Goods" includes machinery, equipment, parts, materials, items and property of every type, kind and description provided by Contractor, as described on the face of the attached Proposal. The term "Manufacturer" refers to a manufacturer of Goods not Contractor. "Project" shall mean the work specified in the attached Contractor's Proposal.

**2. ACCEPTANCE**

This contract consists of this Agreement, any attached Contractor's Proposal, and any attached Exhibits, and/or Supplementary and other Conditions, any other documents listed in this Agreement, together with changes and modifications to the foregoing agreed in writing by Contractor and Owner. Commencing performance or providing Services or making deliveries of Goods or any acknowledgement of this Agreement by either party shall constitute an acceptance of the terms of this Agreement by said party. The parties are bound only by (a) the terms and conditions (without conditions or modifications) stated in these Terms and Conditions for provision of Services, Equipment, Parts, or Rental (the "Terms and Conditions"); (b) the attached written proposal submitted by Contractor to Owner ("Proposal"), if any; (c) the written order acknowledgment issued by Contractor to Owner ("Acknowledgment"), if any; and, (d) any change orders identified as such and agreed to in writing by Contractor (the Order, Terms and Conditions, Proposal, Acknowledgment, and any such change order, and any such additional terms as agreed to in writing by an authorized representative of Contractor collectively referred to herein as the "Agreement"). Owner's submission of a purchase order (or other similar document) shall be deemed to be an express acceptance of these Terms and Conditions notwithstanding language in Owner's purchase order (or other similar

document) inconsistent herewith, and any inconsistent language in Owner's purchase order (or other similar document) is hereby rejected. Owner's purchase order (or other similar document) is incorporated in this Agreement, only to the extent of specifying the nature and description of the Services, Equipment, Parts or Rental and then only to the extent consistent with the Proposal or Acknowledgment. In the event of any conflict between a Proposal and an Acknowledgment, the Acknowledgment shall prevail.

**3. PRICES**

Prices of Services, Equipment, Parts, or Rental shall be as stated in the attached Contractor's Proposal or subsequent Acknowledgment, or if there is no Proposal or Acknowledgment, as otherwise agreed to in writing by Contractor. Additional or standby labor charges are US \$860 per day; additional or standby equipment charges are cost plus overhead of 13.7% and a reasonable profit of not less than 20%. Unless otherwise specified, all prices contained in the attached Contractor's Proposal are valid for 30 days from date of issue of the Proposal. All price quotations for Equipment, Parts or Rentals are EXW Contractor's or Manufacturer's premises (INCOTERMS 2010), or as agreed per the Proposal or Acknowledgment and are subject to change without notice. All sales, use, rental, import, excise and like taxes, whether foreign or domestic, shall be charged to and borne by Owner. Contractor bears no responsibility for any consular fees, fees for legalizing invoices, certificates of origin, stamping bills of lading, or other charges required by the laws of any country of destination, or any fines imposed due to incorrect declarations. Charges will be added for factory preparation and packaging for shipment. Minimum freight and invoice charges in effect at the time of the Order shall apply. If by reason of any act of government, the cost to Contractor of performing its obligations hereunder is increased, such increase shall be added to the quoted price.

**4. PAYMENT TERMS**

Payment Terms are as specified by Contractor in the attached Contractor's Proposal, or as specified in a subsequent Acknowledgment, and if not there specified, remaining charges, including applicable



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packing and transportation costs, billed by Contractor are payable within net 30 days of the date of invoice. Contractor reserves the right to modify or withdraw credit terms at any time without notice. Unless otherwise specified, all payments are due in the currency specified in Contractor's Proposal, Acknowledgment and/or invoice. Interest shall be due from Owner to Contractor on overdue accounts at the maximum rate allowed by law. When partial shipments are made, the goods will be invoiced as shipped and each invoice will be treated as a separate account and be payable accordingly. Payment for goods is due whether or not technical documentation and/or any third party certifications are complete at the time of shipment. Contractor shall be entitled to recover all reasonable attorneys' fees and other costs incurred in the collection of overdue accounts. Contractor reserves the right, where a genuine doubt exists as to Owner's financial position or if Owner is in default of any payment obligation, to suspend delivery or performance of any Agreement or any part thereof without liability and without prejudice to, and without limitation of, any other remedy available to Contractor until Owner cures the default or satisfactory security for payment has been provided. Contractor shall have the option to extend the delivery date by a time at least equal to the period of such suspension. In the event of Rental, should Owner default in meeting any of the terms hereunder for any reason, Contractor has the right to retrieve all Rentals as detailed in the Proposal and also to collect rental payments due. If Owner elects to exercise a purchase option for Rental equipment, rental charges will be incurred and will be invoiced until the later of: (i) the end of the agreed rental period; or (ii) 30 days prior to the receipt of total purchase price and all other rental amounts due.

**7. SUPERVISION**

Contractor shall provide a competent Project Supervisor, authorized to act for Contractor and to work with Owner. Contractor's executive officers shall give the work such personal supervision as may be necessary for the proper execution of the work. Contractor shall supervise its staff on site, and keep Contractor's work area free from accumulation of waste materials or rubbish caused by Contractor's operations under this Agreement. At the completion of the Project, Contractor shall remove from the Project waste materials, rubbish, Contractor's tools, construction equipment, machinery and surplus materials.

**9. SPECIFICATIONS, DRAWINGS, ENGINEERING DATA, EVALUATIONS**

Contractor shall prepare specifications, drawings and other information required to perform the work which shall be submitted to the Owner for his consideration and acceptance. All plans, drawings, prints and specifications and all copies thereof, supplied to Contractor by Owner or prepared by Contractor for this Project shall be the property of Owner. Contractor shall return them to Owner upon completion of the work or otherwise dispose of them at the written direction of the Owner.

**5. PROCUREMENT OF MATERIALS**

All purchasing shall be accomplished by purchase order on Contractor's forms. In connection with procurement services rendered by Contractor, all discounts, rebates and refunds shall accrue to Contractor.

**6. DELIVERY**

Delivery Terms are as specified by Contractor in the attached Contractor's Proposal, or as specified in a subsequent Acknowledgment, and if not there specified, delivery shall be EXW Contractor's or Manufacturer's premises (INCOTERMS 2010), as determined by Contractor, except to the extent modified by these Terms and Conditions. Partial shipments may be made as agreed to by Owner and Contractor. Stated delivery dates are approximate only and cannot be guaranteed. Contractor shall have no liability for damages arising out of the failure to keep a projected delivery date, irrespective of the length of the delay. In the event Owner is unable to accept delivery of goods when tendered, Contractor may, at its option, arrange for storage of the goods at Owner's sole risk and Owner shall be liable to Contractor for the reasonable cost of such storage. This provision is without prejudice to any other rights which Contractor may have with respect to Owner's failure to take delivery of goods, which includes the right to invoice Owner for the goods. Owner is responsible for all shipping costs from Contractor's premises to the location as designated by the Owner. All shipping costs for the return of goods from the location specified by Owner to Contractor's or Manufacturer's premises shall also be for Owner's account.

**8. RECORDS, ACCOUNTING, INSPECTION** Contractor shall keep full and detailed records and accounts. Contractor shall afford Owner's authorized personnel and independent auditors, if any, full access to the work and to all of Contractor's books, records, correspondence, instructions, drawings, receipts, vouchers and other documents relating to work under this contract, and Contractor shall preserve all such records for two (2) years after final payment. Contractor shall deliver to Owner upon completion of the work, a statement of the cost of the work detailed according to the accounting procedure and requirements of Owner.

**10. CHANGE ORDER**

Without invalidating the Agreement, the Owner may, at any time or from time to time, order additions, deletions or revisions in the work; these will be authorized by written change orders signed by owner's representative. Without invalidating the Agreement, Contractor may, at any time or from time to time, order alternate materials or supplies if specified materials or supplies are not available, or substitution is appropriate due to advancement in technology, material flow, or other proprietary or corporate alignments; these will be authorized by written change orders. Upon receipt of a written change order, the contractor will proceed with the work involved. All work shall be executed under the applicable conditions of the contract documents. If any change order causes an increase or decrease in the contract price or an extension or shortening of the contract time, an equitable adjustment will be made and if Owner maintains that Contractor's adjustment is not equitable, the price change shall be negotiated. In the event the parties cannot agree, the Owner shall immediately pay 75% of the Contractor's proposed adjustment, and allow Contractor such additional time as Contractor estimates necessary, and the final determination shall be made in accordance with the dispute resolution provision of this Agreement. Contractor is under no obligation to perform work in relation to oral change orders.

**11. COMPLETION OF WORK**

It is understood that time is of the essence and that, subject to the directions of the Owner, Contractor shall complete all authorized work in a minimum of time consistent with good construction and professional practices. If Contractor is delayed in the performance of the work by reason of a failure of equipment manufacturers to deliver equipment to Contractor by the dates scheduled in the Project schedule, without fault of Contractor, then time allowed shall be extended for a period equal to the time of the delay, if, within ten (10) days after such delay, Contractor provides written notice thereof to the Owner.

**12. FORCE MAJEURE**

If either party is unable by reason of Force Majeure to carry out any of its obligations under this Agreement, other than the obligations to pay money when due and indemnification obligations assumed hereunder, then on such party giving notice and particulars in writing to the other party within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended. "Force Majeure" shall include acts of God, laws and regulations, government action, war, civil disturbances, strikes and labor problems, delays of vendors, carriers, lightening, fire, flood, washout, storm, breakage or accident to equipment or machinery, shortage of raw materials, and any other causes that are not reasonably within the control of the party so affected. Contractor shall be paid its applicable standby rate, if any, during any such Force Majeure event.

**13. CANCELLATION**

Orders placed by Owner and accepted by Contractor may be canceled only with consent of Contractor

and will subject Owner to cancellation charges which shall include Contractor's actual costs, overhead at 13.7% and a reasonable profit not less than 20%. For Rentals, minimum rental charges as stated in the Proposal will apply. Owner shall verify the amount of the cancellation charges prior to canceling an order.

**14. TITLE AND RISK OF LOSS**

For purchased goods, ownership and risk of loss pass to Owner upon the earlier of (a) Contractor's delivery of the goods, or (b) invoicing by Contractor for the goods where Owner is unable to accept delivery on the scheduled date. Contractor retains a security interest in the goods until the purchase price has been paid, and Owner agrees to perform upon request all acts required to secure Contractor's interest. Contractor accepts no responsibility for any damage, shortage or loss in transit. Contractor will attempt to pack or prepare all shipments so that they will not break, rust or deteriorate in shipment, but Contractor does not guarantee against such damage. Claims for any damage, shortage or loss in transit must be made by Owner on the carrier.

In the event of Rental, Owner assumes all risk and liability whether or not covered by insurance, for loss or damage to the Rental machinery or equipment. Risk and liability passes to Owner upon delivery by Contractor. Title to Rental machinery or equipment shall remain with Contractor at all times. Owner acquires no ownership, title or property rights to the Rental machinery or equipment except the right to use the Rental machinery or equipment subject to the terms of this Agreement.

**15. PERFORMANCE GUARANTEES**

Performance guarantees and Contractor's obligations therefore shall be in accordance with the provisions and conditions of proposal attached hereto.

**16. LIMITED WARRANTY**

Service. Contractor warrants that the Services to be provided pursuant to this Agreement shall conform to the material aspects of the specifications set forth in the Agreement. Contractor shall re-perform that part of the non-conforming Services, provided Contractor is notified by Owner prior to Contractor's departure from the worksite.

New Equipment/Parts. In the case of the purchase of new Equipment/Parts, and solely for the benefit of the original user, Contractor warrants, for a period of eighteen (18) months from delivery or twelve (12) months from installation, whichever is earlier, that new Equipment/Parts of its own manufacture shall conform to the material and technical specifications set forth in the Agreement. Goods manufactured by others are sold "as is" except to the extent the manufacturer honors any applicable warranty made by the manufacturer. Secondhand goods are sold "as is". If the new Equipment/Parts fail to conform to such specifications upon inspection by Contractor, Contractor will, at its option and as Owner's sole remedy, either repair or replace such defective Equipment/Parts with the type originally furnished.

Rental. Contractor warrants that the Rental equipment to be provided pursuant to this Agreement shall conform to the material aspects of the specifications set forth in the Agreement. Provided Contractor is notified by Owner prior to Contractor's departure from the worksite, Contractor shall repair or replace non-conforming Rental equipment.

Contractor's warranty obligations hereunder shall not apply if non-conformity or failure was caused by (a) Owner's failure to properly store or maintain the equipment or parts; (b) the unauthorized modification, repair or service of the equipment or parts by Owner; (c) utilization of replacement parts not provided by Contractor or Contractor's OEM; or (d) use or handling of the equipment by Owner in a manner inconsistent with Contractor's/Contractor's OEM's recommendations. Further, Contractor's warranty obligations under this Article 16 shall terminate if (a) Owner fails to perform its obligations under this or any other Agreement between the parties, or (b) if Owner fails to pay any charges due Contractor. Any third party warranties provided on equipment or parts not manufactured by Contractor are assigned to Owner, without recourse, at the time of delivery, provided such warranties are assignable.

THIS ARTICLE 16 SETS FORTH OWNER'S SOLE REMEDY AND CONTRACTOR'S EXCLUSIVE OBLIGATION WITH REGARD TO NON-CONFORMING SERVICES, EQUIPMENT, PARTS OR RENTAL. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED PURSUANT TO THE PROVISIONS OF THIS ARTICLE 16, CONTRACTOR MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, AND CONTRACTOR DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**17. SUBCONTRACTING AND ASSIGNMENT**

This contract may not be assigned or encumbered. Contractor will bind every subcontractor by written contract to observe all the terms of this Agreement to the extent that they may be applicable to such subcontractors.

**18. LIABILITIES, RELEASES AND INDEMNIFICATION**

For purpose of this Article 18, the following definitions shall apply:

"Contractor Group" shall mean (i) Contractor, its parent, subsidiary or related companies, (ii) its and their working interest Contractors, co-lessees, co-Contractors, partners, joint ventures, if any, and their respective parents, subsidiary or related companies and (iii) the officers, directors, employees, consultants, agents and invitees of all of the foregoing.

"Owner Group" shall mean (i) Owner, its parent, subsidiary or related companies, (ii) its and their working interest Contractors, co-lessees, co-Contractors, partners, joint ventures, if any, and their respective parents, subsidiary or related companies and (iii) the officers, directors, employees, consultants, agents and invitees of all of the foregoing.

"Claims" shall mean all claims, demands, causes of action, liabilities, damages, judgments, fines, penalties, awards, losses, costs, expenses (including, without limitation, attorneys' fees and costs of litigation) of any kind or character arising out of, or related to, the performance of or subject matter of this Agreement (including, without limitation, property loss or damage, personal or bodily injury, sickness, disease or death, loss of services and/or wages, or loss of consortium or society).

a) Contractor shall release, indemnify, defend and hold Owner Group harmless from and against any and all Claims in respect of personal or bodily injury to, sickness, disease or death of any member of Contractor Group or Contractor Group's subcontractors or their employees, agents or invitees, and all Claims in respect of damage to or loss or destruction of property owned, leased, rented or hired by any member of Contractor Group or Contractor Group's subcontractors or their employees, agents or invitees.

b) Owner shall release, indemnify, defend and hold Contractor Group harmless from and against any and all Claims in respect of personal or bodily injury to, sickness, disease or death of any member of Owner Group or Owner Group's other contractors or their employees, agents or invitees, and all Claims in respect of damage to or loss or destruction of property owned, leased, rented or hired by any member of Owner Group or Owner Group's other contractors or their employees, agents or invitees.

c) Notwithstanding anything contained in this Agreement to the contrary, in all instances where Contractor is providing Services at Owner's site, Owner, to the maximum extent permitted under applicable law, shall release, indemnify, defend and hold Contractor Group and Contractor Group subcontractors harmless from and against any and all Claims asserted by or in favor of any person or



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party, including Contractor Group, Owner Group or any other person or party, resulting from: (i) loss of or damage to the site, (ii) to any feature, natural or manmade on the site, (iii) to any material, commodity, or interest, natural or manmade, on the site (iv) pollution or contamination of any kind (other than surface spillage of fuels, lubricants, rig sewage or garbage, to the extent attributable to the negligence of Contractor Group, including but not limited to the cost of control, removal and clean-up, or (v) damage to, or escape of any substance from, any pipeline, vessel or storage facility.

d) NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER AND EACH PARTY RELEASES THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSSES (WHETHER FORESEEABLE AT THE DATE OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PRODUCTION, LOST REVENUE, LOST PRODUCT, LOST PROFIT, LOST BUSINESS OR BUSINESS OPPORTUNITIES.

e) Contractor's total liability for all claims, damages, causes of action, demands, judgments, fines, penalties, awards, losses, costs and expenses (including attorney's fees and cost of litigation) shall be limited to and shall not exceed the value of the Services, Equipment, Parts or Rental purchased and paid under the Agreement.

f) THE EXCLUSIONS OF LIABILITY, RELEASES AND INDEMNITIES SET FORTH IN PARAGRAPHS A. THROUGH E. OF THIS ARTICLE 18 SHALL APPLY TO ANY CLAIM(S), LOSSES OR DAMAGES WITHOUT REGARD TO THE CAUSE(S) THEREOF, INCLUDING BUT NOT LIMITED TO PRE-EXISTING CONDITIONS, WHETHER SUCH CONDITIONS BE PATENT OR LATENT, THE UNSEAWORTHINESS OF ANY VESSEL OR VESSELS, IMPERFECTION OF MATERIAL, DEFECT OR FAILURE OF PRODUCTS OR EQUIPMENT, BREACH OF REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED), ULTRAHAZARDOUS ACTIVITY, STRICT LIABILITY, TORT, BREACH OF CONTRACT, BREACH OF DUTY (STATUTORY OR OTHERWISE), BREACH OF ANY SAFETY REQUIREMENT OR REGULATION, OR THE NEGLIGENCE OR OTHER LEGAL FAULT OR RESPONSIBILITY OF ANY PERSON (INCLUDING THE INDEMNIFIED OR RELEASED PARTY), WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE.

g) Redress under the indemnity provisions set forth in this Article 18 shall be the exclusive remedy (ies) available to the parties hereto for the matters, claims, damages and losses covered by such provisions.

## 19. INSURANCE

Upon written request, each party shall furnish to the other party certificates of insurance evidencing the fact that the adequate insurance to support each party's obligations hereunder has been secured. To the extent of each party's release and indemnity obligations expressly assumed by each party hereunder, each party agrees that all such insurance policies shall, (a) be primary to the other party's insurance; (b) include the other party, its parent, subsidiary and affiliated or related companies, and its and their respective officers, directors, employees, consultants and agents as additional insured; and, (c) be endorsed to waive subrogation against the other party, its parent, subsidiary and affiliated or related companies, and its and their respective officers, directors, employees, consultants and agents.

## 20. OWNERSHIP AND PATENT INDEMNITY

Contractor warrants that the use or sale of Equipment or Parts hereunder will not infringe patents of others by reason of the use or sale of such Equipment or Parts per se, and hereby agrees to hold Owner harmless against judgment for damages for infringement of any such patent, provided that Owner shall promptly notify Contractor in writing upon receipt of any claim for infringement, or upon the filing of any such suit for infringement, whichever first occurs, and shall afford Contractor full opportunity, at Contractor's option and expense, to answer such claim or threat of suit, assume the control of the defense of such suit, and settle or compromise same in any way Contractor sees fit. Contractor does not warrant that such Equipment or Parts: (a) will not infringe any such patent when not of Contractor's manufacture, or specially made, in whole or in part, to the Owner's design specifications; or (b) if used or sold in combination with other materials or apparatus or used in the practice of processes, will not, as a result of such combination or use, infringe any such patent, and Contractor shall not be liable and does not indemnify Owner for damages or losses of any nature whatsoever resulting from actual or alleged patent infringement arising pursuant to (a) and (b) above. **THIS ARTICLE STATES THE ENTIRE RESPONSIBILITY OF CONTRACTOR CONCERNING PATENT INFRINGEMENT.**

## 21. REGULATORY COMPLIANCE

By acceptance of delivery under this Agreement, Owner warrants it has complied with all applicable governmental, statutory and regulatory requirements and will furnish Contractor with such documents as may be required. Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders, including laws and regulations pertaining to labor, wages, hours and other conditions of employment, and applicable price ceilings if any. Contractor will not provide any certification or other documentation nor agree to any contract provision or otherwise act in any manner which may cause Contractor to be in violation of applicable United States law, including but not limited to the Export Administration Act of 1979 and regulations issued pursuant thereto. All Orders shall be conditional upon granting of export licenses or import permits which may be required. Owner shall obtain at its own risk any required export license and import permits and Owner shall remain liable to accept and pay for material if licenses are not granted or are revoked.

## 22. CONFIDENTIAL INFORMATION

Each party recognizes and acknowledges that it shall maintain all data, information, disclosures, documents, drawings, specifications, patterns, calculations, technical information and other documents (collectively, "Confidential Information") obtained from the other party in strict confidence. However, nothing hereinabove contained shall deprive the party receiving the Confidential Information of the right to use or disclose any information: (a) which is, at the time of disclosure, known to the trade or public; (b) which becomes at a later date known to the trade or the public through no fault of the party receiving the Confidential Information and then only after said later date; (c) which is possessed by the party receiving the Confidential Information, as evidenced by such party's written records, before receipt thereof from the party disclosing the Confidential Information; (d) which is disclosed to the party receiving the Confidential Information in good faith by a third party who has an independent right to such information; (e) which is developed by the party receiving the Confidential Information as evidenced by documentation, independently of the Confidential Information; or, (f) which is required to be disclosed by the party receiving the Confidential Information pursuant to an order of a court of competent jurisdiction or other governmental agency having the power to order such disclosure, provided that the party receiving the Confidential Information uses its best efforts to provide timely notice to the party disclosing the Confidential Information of such order to permit such party an opportunity to contest such order. In the event that Contractor owns copyrights to, patents to or has filed patent applications on, any technology related to the Services, Equipment, Parts or Rental furnished by Contractor hereunder, and if Contractor makes any improvements on such technology, then Contractor shall own all such improvements, including drawings, specifications, patterns, calculations, technical information and other documents.

## 24. INDEPENDENT CONTRACTOR

It is expressly understood that Contractor is an independent contractor, and that neither Contractor nor its principle, partners, employees or subcontractors are servants, agents or employees of Owner.

## 25. ADDITIONAL RENTAL TERMS AND CONDITIONS

Unless otherwise indicated, the rental rates contained in Contractor's Proposal are on a per day basis and such rates shall apply to each piece of equipment or part rented. Contractor represents that it has fully inspected the Rental equipment and parts as detailed in the Agreement and that said equipment and parts are in good condition and repair, and are fully acceptable for use as specified in the

Agreement. Furthermore, Contractor represents that the Rental equipment and parts are not subject to any encumbrances or liens, and that Contractor has full title to the equipment and parts, and thus, Contractor is authorized to enter into and execute this Agreement.

Owner represents that it shall use the Rental equipment and parts in a careful and proper manner and shall comply with all laws, ordinances and regulations relating to the possession, use and maintenance of the equipment and parts in accordance with Contractor's approved procedures. In the event the parties agree that the Owner shall operate the Rental equipment and parts, Owner further represents that the Rental equipment and parts will be operated by skilled employees trained in the use of the Rental equipment and parts. Owner shall keep the Rental equipment and parts free and clear of all liens and encumbrances arising in connection with Owner's operations and/or use of the Rental equipment and parts. Owner, at its sole cost, shall provide and maintain insurance against the loss, theft, damage or destruction of the Rental equipment and parts. The coverage shall be in an amount not less than the new replacement price of the Rental equipment and parts. Robert Ober & Associates shall provide equipment and parts prices at execution of this Agreement.

At the expiration of the applicable rental term, Owner will at its sole cost return the Rental equipment to the facility designated by Contractor, in working condition (reasonable wear and tear excepted). Upon receipt of the returned Rental equipment, Contractor will service and inspect the Rental equipment. In the event Contractor determines that the Rental equipment is materially damaged or not in working condition (reasonable wear and tear accepted), any service work required to bring the Rental equipment to good working condition will be charged back to the Contractor. Such charges may include service, inspection, and spare parts.

## 26. GENERAL

Failure of Owner or Contractor to enforce any of the terms and conditions of this Agreement shall not prevent a subsequent enforcement of such terms and conditions or be deemed a waiver of any subsequent breach. Should any provisions of this Agreement, or portion thereof, be unenforceable or in conflict with applicable governing country, state, province, or local laws, then the validity of the remaining provisions, and portions thereof, shall not be affected by such unenforceability or conflict, and this Agreement shall be construed as if such provision suspenses all prior oral or written agreements or representations. Owner acknowledges that it has not relied on any representations other than those contained in this Agreement. This Agreement shall not be varied, supplemented, qualified, or interpreted by any prior course of dealing between the parties or by any usage of trade and may only be amended by an agreement executed by an authorized representative of each party.

27. NOTICES All notices hereunder shall be deemed to be made properly if sent by mail, package express or hand delivery to Contractor at 300 East Sonterra Boulevard, Suite 310, San Antonio, Texas 78258 and to Owner at the address stated on the attached Contractor's Proposal. The address may be changed by either party by similar notice. Notice shall be effective upon receipt. Either party giving such notice shall also notify promptly the other party's Engineer, as appropriate.

## 28. MISCELLANEOUS PROVISIONS

(a) This contract constitutes the entire agreement between Contractor and Owner relating to the work. There are no previous or contemporary representations or warranties of Owner or Contractor not set forth herein.

(b) Except as specifically provided herein, no modification, waiver, termination, rescission, discharge, or cancellation of this contract or of any terms thereof shall be binding on either party unless in writing and executed by an officer or employee of the party to be charged specifically authorized to do so.

(c) No waiver of any provision of or a default under this Agreement shall affect the right of either party thereafter to enforce said provision or to exercise any right or remedy in the event of any other default, whether or not similar.

(d) No modification, waiver, termination, discharge or cancellation of this Agreement or of any terms thereof shall impair either party's rights with respect to any liabilities, whether or not liquidated, of one party to the other already accrued.

(e) All rights and remedies of each party specified in this contract are in addition to that party's other rights and remedies.

(f) Contractor shall remain an independent Contractor and shall have no power, nor shall Contractor represent that Contractor has any power, to bind Owner or to assume or to create any obligation express or implied on behalf of Owner except as specifically authorized in advance by the Owner Engineer in connection with the performance of procurement services under Paragraph 5 of this Agreement.

(g) Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Agreement and any prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable the provision in any other jurisdiction. To the maximum extent permitted by applicable law, the parties to this Agreement waive any provision of law that renders any provision of this Agreement prohibited or unenforceable in any respect.

(h) Nothing in this Agreement will be deemed to create a joint venture or partnership between the parties.

(i) Contractor's performance shall in all ways strictly conform with all applicable laws, regulations, safety ordinances, labor agreements and working conditions to which it is subject, including, but not limited to, all federal, state and local non-discrimination employment provisions, and all local regulations and building codes.

(k) The parties and each of them recognize and acknowledge that Contractor operates out of, and is headquartered in Texas and approved execution of this Agreement from its offices in Texas.

Except for Services, Equipment, Parts or Rental provided, or to be provided, by Contractor in North or South America (the "America's"), this Agreement shall be governed by and interpreted in accordance with the laws of England and Wales, excluding conflicts and choice of law principles.

For Services, Equipment, Parts or Rental provided, or to be provided, by Contractor in the America's, this Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of Texas, excluding conflicts and choice of law principles.

For any dispute arising in connection with this Agreement, the parties hereto shall attempt, within sixty (60) days (unless otherwise extended by mutual agreement of the parties) of receipt of the written notice of a dispute, to resolve the dispute by non-binding mediation. Mediation is a condition precedent to the institution of legal or equitable proceedings by either party, and it shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the date of this Agreement. Request for mediation shall be filed in writing with the other party to the Agreement and with the American Arbitration Association. The parties shall share the mediator's fee and filing fees equally. The mediation shall be held in San Antonio, Bexar County, Texas.

If the parties cannot resolve the dispute in mediation, the dispute shall be resolved by judicial reference pursuant to Section 151.001 *et seq.* of the Texas Civil Practices and Remedies Code. The complaining party shall file a petition in the applicable district court, or other court of original jurisdiction, and that petition shall be abated pending the decision of the judge. The proceeding shall be conducted in compliance with the Texas Rules of Civil procedure and the Texas Rules of Evidence. The cost of the referee shall be borne equally by each party. The referee shall be a retired judge or attorney with at least 10 years of experience in construction related matters and/or construction litigation, or any other individual that the parties agree has the qualifications and experience

## Proposal # 1

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April 17, 2014

necessary. The parties shall agree upon the referee within thirty (30) days of the demand for judicial reference. In the absence of proof of grounds for objection to the appointed general referee pursuant to applicable rules, any party brought into the judicial reference after the selection of the referee shall be deemed have consented to such selection. In the event the parties cannot agree on the selection of a referee, any party may petition the Bexar County Court for the appointment of a qualified retired judge or attorney as a general referee. The general referee's decision shall be made in accordance with the substantive law of the State of Texas and is binding on the parties as would a decision by a court. The decision shall be in writing, and shall contain written findings of fact, and, to the extent applicable, conclusions of law, and shall be reported to the court within twenty (20) days after the testimony is closed. Each party retains the same appeal rights of the referee's decision as if the decision were rendered by a trial court judge. The judicial reference shall be held in San Antonio, Bexar County, Texas.

In the event the parties become involved in litigation, judicial reference, or similar proceedings with each other arising out of this Agreement or other performance thereof in which the services of an attorney or other expert are reasonably required, the prevailing party shall be fully compensated for the cost of its participation in such proceedings, including the cost incurred for attorneys' fees and experts' fees. The attorneys' fee award shall fully reimburse all attorneys' fees actually incurred in good faith regardless of the size of a judgment, it being the

intention of the parties to fully compensate for all attorneys' fees and experts fees paid or incurred in good faith.

(l) This Agreement was negotiated pursuant to an arms-length transaction and is the product of joint drafting. It shall not be construed against any party more strictly than against the other party.

(m) CONTRACTOR AND OWNER KNOWINGLY, VOLUNTARILY, IRREVOCABLY, UNCONDITIONALLY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON OR PARTY AND RELATED TO THIS AGREEMENT; THIS IRREVOCABLE WAIVER OF THE RIGHT TO A JURY TRIAL BEING A MATERIAL INDUCEMENT FOR CONTRACTOR AND OWNER TO ENTER INTO THIS AGREEMENT.

(n) This Agreement may be effectively executed by signature(s) on any number of counterparts.



Plant Materials, LLC

18866-103 Stone Oak Pkwy  
Suite 4  
San Antonio, TX 78258

# Sales Order

Date	S.O. No.
5/1/2014	SSS014PM01S

Name / Address
Shale Support Services 105 Street A Picayune, MS 39466

Ship To
Shale Support Services 1440-1550 US 11 Picayune, MS 39466

P.O. No.	Project
	SSS014PM-Picayun...

Item	Description	Ordered	Rate	Amount
Ironworker	Labor: Ironworkers Day Shift-\$905.00/man/8 hr day - (6 men - weekly total = 7 days)	1	38,010.00	38,010.00
Ironworker-OT Hrs	Labor: Ironworkers Day Shift-\$137.50/hr over 8 hr day - (6 men @ 4 hrs ea. day - weekly total = 7 days)	1	23,100.00	23,100.00
Ironworker	Labor: Ironworkers Night Shift \$1200.00/man/8 hr day - (6 men - weekly total = 7 days)	1	50,400.00	50,400.00
Ironworker-OT Hrs	Labor: Ironworkers Night Shift- \$225.00/hr over 8 hr day - (6 men @ 4 hrs ea. day - weekly total = 7 days)	1	37,800.00	37,800.00
Equipment Rental	Equipment Rental-Generator \$2500.00/month - (weekly total = 7 days)	1	625.00	625.00
Equipment Rental	Equipment Rental -Three (3) Welding Machine \$1500.00/each= \$4500.00/month (weekly total = 7 days)	1	1,125.00	1,125.00
Parts	All Materials will be invoiced at Cost plus OH + 10%		0.00	0.00
Parts	Welding Supplies (weekly total = 7days) Two weeks max	1	1,900.00	1,900.00
Equipment Rental	10# Fork Lift (weekly total = 7 days)	1	1,175.00	1,175.00
Supervisor	Labor: Supervisor \$1200.00/day (weekly total = 7 days)	1	8,400.00	8,400.00
Parts	Welding Gases-Oxygen and acetylene will be provided by Shale Support Services		0.00	0.00
Equipment Rental	Crane - 70 Ton @ \$170.00 per hour with 8 hour minimum - Total cost TBD		0.00	0.00
Equipment Rental	Crane - 40 Ton @ \$120.00 per hour with 4 hour minimum - Total cost TBD		0.00	0.00
Terms	Terms: TBD with signed final proposal		0.00	0.00
<b>Total</b>				\$162,535.00